

(2004) 08 P&H CK 0151

In the Punjab And Haryana At Chandigarh

Case No : Regular First Appeal No. 1511 of 1988

The State of Punjab

APPELLANT

Vs

Shamsher Singh and Others

RESPONDENT

Date of Decision : 18-08-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (2005) 139 PLR 65 : (2004) 4 RCR(Civil) 214

Hon'ble Judges : S.S. Nijjar, J

Bench : Single Bench

Advocate : H.S. Sran, A.A.G, for the Appellant; G.S. Jaswal, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—This order will dispose of Regular First Appeal Nos. 1511, 1512, 1513, 1514 and 1515 of 1988 as the same are arising out of a common award.

2. The State of Punjab has filed these appeals challenging the award dated June 13, 1988, delivered by learned Additional District Judge, Hoshiarpur, in RBT L.A. Case Nos. 27, 40, 41, 43 and 44 of 1987.

3. The Punjab Government published a notification u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"), on 02.08.1982 acquiring the land measuring 61 Kanals 8 Marias situated in the revenue estate of village Bhatoli. The land was acquired for a public purpose i.e. for the construction of the Kandi Canal. Notification u/s 6 of the Act was issued on 07.09.1982. By award dated 23.11.1983, the Land Acquisition Collector, allowed the compensation to the land owners as under:-

Class of the land Rate per acre Rate per Maria Barani Rs. 8000/- Rs. 50/- Banjar Quadim Rs. 4000/- Rs. 25/- Kharkhana Rs. 6000/- Rs. 37.50 P. Gair Mumkin Rs. 3000/- Rs. 18.75 P.

4. Aggrieved against the aforesaid award, the persons interested moved

applications u/s 18 of the Act for references to the learned District Judge, Hoshiarpur. It was not disputed that the claimants being the co-sharers in the acquired land are the persons interested. The claimants pleaded that the amount awarded in respect of the acquired land is ridiculously low, inadequate and deserves to be enhanced. The learned Additional District Judge in his award has set out the grounds, as pleaded by the claimants, as follows:-

i) The market value of the Barani land was not less than Rs. 50,000/- per acre at the time when the notification u/s 4 of the Act was published. Kharkhana yielded from the Kharkhana land used to be sold through auction at the rate of Rs. 100/- per kanal per annum. Market value of the Banjar Quadim and Gair Mumkin land was not less than Rs. 40,000/- per acre.

ii) On account of the severance of the acquired land from the bulk of the land, the unacquired land was rendered the uneconomic unit, thus, causing substantial damage to them (Claimants).

iii) Fruit bearing trees were standing in the acquired land and no compensation on this account was awarded vide the impugned Award of the Collector.

iv) Wheat gram crops standing in the acquired land were destroyed and the Collector little cared to award compensation to them on account of it.

5. The claimant also prayed for the grant of interest at the rate of 6% per annum from the date of taking possession of the land till realization of the enhanced amount as well as solatium on the enhanced amount, owing to the compulsory acquisition at the statutory rate of 15 per cent.

6. The State of Punjab has opposed the claim on the ground that the compensation granted was adequate.

7. On the pleadings of the parties, the learned Additional District Judge, Hoshiarpur, on 23.09.1986, framed the following issues:-

1. What was the market value of the acquired land at the time of the notifications for acquisition of land, were issued?

2. Whether the compensation awarded by the Collector is inadequate? If so, to what compensation the appellants are entitled? OPA

3. Whether standing crop of the applicants was damaged? If so, to what amount, if any, the applicants are entitled on account of damage done to the crop? OPA

4. Relief.

8. All the aforesaid appeals are consolidated vide Order dated 06.02.1987. The evidence was recorded in Case No. 79 of 1986 (RBT L.A. No. 37 of 1987, titled Gram Panchayat v. Punjab State).

9. On issue Nos. 1, 2 and 3, the claimants as well as the State of Punjab, relied on a number of sale instances in support of their respective claims. The sale

instances relied upon by the State of Punjab have put the market value of the acquired land between Rs. 47.24 P. per marla and Rs. 34.48 P. per marla. Three instances of sale have been rejected by the learned Additional District Judge on the ground that the amount mentioned by the State of Punjab are even less than the amount awarded by the collector u/s 11 of the Act. While dealing with the sale instances produced by the claimants, to my mind, the learned Additional District Judge has rightly held that the market value of the acquired land could not be less than the amount awarded by the Collector. The learned Additional District Judge also notices the well settled proposition of law that when large tracts of land are acquired, transactions in respect of small pieces of land do not offer a proper guidelines. He has, therefore, rejected the sale deeds produced on the record by the claimants which pertained to areas measuring between 9/10 Marlas and one acre 8 Marias. The sale instances have also been rejected on the ground that they are much prior to the acquisition proceedings.

10. Having rejected the sale instances offered by both the claimants as well as the State of Punjab, the learned Additional District Judge has sought guidance from an earlier award given with regard to the similar land in the same locality. The learned Additional District Judge has rightly relied upon the ratio of the law laid down in the case of Hoshanak Singh v. Union of India (1983 85 P.L.R. 620 and the judgment rendered in the case of Brij Nandan Vs. State of Haryana, . The learned Additional District Judge, thereafter, observed that the earlier award deals with the land which was acquired in village Sathwan which adjoins the revenue estate of village Bhatoli. The land in village Sathwan was also acquired by the same notification dated 02.08.1982. It was also acquired for the same public purpose. Dis-satisfied by the compensation awarded by the Land Acquisition Collector, the claimants had sought references. After evaluating the evidence, the compensation had been enhanced.

11. Mr. Sran, learned counsel for the appellant has vehemently argued that the aforesaid award could not have been relied upon as the land acquired was in a different village. I am of the considered opinion that the mere fact that two tracts of land are situated in two different villages, cannot be a ground for rejecting an earlier award which relates to the same acquisition. Undoubtedly, the land acquired in both the villages was of similar nature. It had been acquired for the same public purposes. Therefore, the learned Additional District Judge has correctly determined the market value by relying on the earlier award. I am of the considered opinion that the award given by the learned Additional District Judge does not suffer from any legal infirmity.

12. No other point has been urged by the learned counsel for the appellants.

13. In view of the above, I find no merit in the present appeals. The same are dismissed. No costs.